

**2010**

**STATE OF NEBRASKA**

**STATUTES RELATING TO OPTOMETRY PRACTICE ACT**



Department of Health and Human Services  
Division of Public Health  
Licensure Unit

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- 71-1,136.04. Transferred to section 38-2619.
- 71-1,136.05. Transferred to section 38-2620.
- 71-1,136.06. Transferred to section 38-2621.
- 71-1,136.07. Transferred to section 38-2622.
- 71-1,136.08. Transferred to section 38-2623.
- 71-1,136.09. Repealed. Laws 2007, LB 463, § 1319.

## STATUTES PERTAINING TO THE OPTOMETRY PRACTICE ACT

**38-2601. Act, how cited.** Sections 38-2601 to 38-2623 shall be known and may be cited as the Optometry Practice Act.  
Source: Laws 2007, LB463, § 872. Operative date December 1, 2008.

**38-2602. Definitions, where found.** For purposes of the Optometry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2603 to 38-2605 apply.  
Source: Laws 2007, LB463, § 874. Operative date December 1, 2008.

**38-2603. Board, defined.** Board means the Board of Optometry.  
Source: Laws 2007, LB463, § 875. Operative date December 1, 2008.

**38-2604. Pharmaceutical agents, defined.** (1) Pharmaceutical agents, for diagnostic purposes, means anesthetics, cycloplegics, and mydriatics.

(2) Pharmaceutical agents, for therapeutic purposes, means topical ophthalmic pharmaceutical agents which treat eye diseases, infection, inflammation, and superficial abrasions, or oral analgesics, including oral analgesics enumerated in Schedules III and IV of section 28-405 necessary to treat conditions of the eye, ocular adnexa, or visual system, or oral pharmaceutical agents for the treatment of diseases or infections of the eye, ocular adnexa, or visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular adnexa, or visual system, excluding steroids and immunosuppressive agents.

Source: Laws 1979, LB 9, § 4; Laws 1986, LB 131, § 2; Laws 1993, LB 429, § 4; Laws 1998, LB 369, § 4; R.S.1943, (2003), § 71-1,135.01; Laws 2007, LB463, § 876. Operative date December 1, 2008.

**38-2605. Practice of optometry, defined.** (1) The practice of optometry means one or a combination of the following:

(a) The examination of the human eye to diagnose, treat, or refer for consultation or treatment any abnormal condition of the human eye, ocular adnexa, or visual system;

(b) The employment of instruments, devices, pharmaceutical agents, and procedures intended for the purpose of investigating, examining, diagnosing, treating, managing, or correcting visual defects or abnormal conditions of the human eye, ocular adnexa, or visual system;

(c) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye, ocular adnexa, or visual system;

(d) The dispensing and sale of a contact lens, including a cosmetic or plano contact lens or a contact lens containing an ocular pharmaceutical agent which an optometrist is authorized by law to prescribe and which is classified by the federal Food and Drug Administration as a drug;

(e) The ordering of procedures and laboratory tests rational to the diagnosis or treatment of conditions or diseases of the human eye, ocular adnexa, or visual system; and

(f) The removal of superficial eyelid, conjunctival, and corneal foreign bodies.

(2) The practice of optometry does not include the use of surgery, laser surgery, oral therapeutic agents used in the treatment of glaucoma, oral steroids, or oral immunosuppressive agents or the treatment of infantile/congenital glaucoma, which means the condition is present at birth.

Source: Laws 1927, c. 167, § 111, p. 487; C.S.1929, § 71-1601; R.S.1943, § 71-1,133; Laws 1979, LB 9, § 1; Laws 1986, LB 131, § 1; Laws 1987, LB 116, § 1; Laws 1993, LB 429, § 2; Laws 1998, LB 369, § 1; R.S.1943, (2003), § 71-1,133; Laws 2007, LB236, § 20; Laws 2007, LB463, § 877; Laws 2010, LB849, § 6. Operative Date: July 15, 2010.

**38-2606. Board; members; qualifications.** The board shall consist of four members, including three licensed optometrists and one public member.

Source: Laws 2007, LB463, § 878. Operative date December 1, 2008.

**38-2607. Practice of optometry; activities not included.** The practice of optometry shall not be construed to:

(1) Include merchants or dealers who sell glasses as merchandise in an established place of business or who sell contact lenses from a prescription for contact lenses written by an optometrist or a person licensed to practice medicine and surgery and who do not profess to be optometrists or practice optometry;

(2) Restrict, expand, or otherwise alter the scope of practice governed by other statutes; or

(3) Include the performance by an optometric assistant, under the supervision of a licensed optometrist, of duties prescribed in accordance with rules and regulations adopted and promulgated by the department, with the recommendation of the board.

Source: Laws 1927, c. 167, § 112, p. 487; C.S.1929, § 71-1602; R.S.1943, § 71-1,134; Laws 1979, LB 9, § 2; Laws 1998, LB 369, § 2; Laws 2002, LB 1062, § 30; R.S.1943, (2003), § 71-1,134; Laws 2007, LB236, § 21; Laws 2007,

LB463, § 879. The changes made by LB 236 became effective September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2608. Optometry; license; requirements.** Every applicant for a license to practice optometry shall: (1) Present proof that he or she is a graduate of an accredited school or college of optometry; and (2) pass an examination approved by the board. The examination shall cover all subject matter included in the practice of optometry.

Source: Laws 1927, c. 167, § 113, p. 487; C.S.1929, § 71-1603; R.S.1943, § 71-1,135; Laws 1979, LB 9, § 3; Laws 1989, LB 323, § 3; Laws 1998, LB 369, § 3; Laws 1999, LB 828, § 95; R.S.1943, (2003), § 71-1,135; Laws 2007, LB236, § 22; Laws 2007, LB463, § 880. The changes made by LB 236 became effective September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2609. Applicant for licensure based on license outside the state; requirements.** In addition to the standards set by the board pursuant to section 38-126, an applicant for licensure based on a license in another state or territory of the United States or the District of Columbia must have been actively engaged in the practice of optometry for at least two of the three years immediately preceding the application for licensure in Nebraska and must provide satisfactory evidence of being credentialed in such other jurisdiction at a level with requirements that are at least as stringent as or more stringent than the requirements for the comparable credential being applied for in this state.

Source: Laws 2007, LB463, § 881; Laws 2008, LB972, § 1. Operative date December 1, 2008.

**38-2610. License; renewal; statement as to use of pharmaceutical agents.** In issuing a license or renewal, the department, with the recommendation of the board, shall state whether such person licensed in the practice of optometry has been certified to use pharmaceutical agents pursuant to section 38-2613, 38-2614, or 38-2615 and shall determine an appropriate means to further identify those persons who are certified in the diagnostic use of such agents or the therapeutic use of such agents.

Source: Laws 1979, LB 9, § 7; Laws 1986, LB 131, § 4; Laws 1993, LB 429, § 5; Laws 1998, LB 369, § 7; Laws 1999, LB 828, § 98; R.S.1943, (2003), § 71-1,135.04; Laws 2007, LB236, § 24; Laws 2007, LB463, § 882. The changes made by LB 236 became effective September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2611. Continuing competency requirements; waiver.** The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a credential holder submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 38-146. In addition to circumstances determined by the department to be beyond the credential holder's control pursuant to such section, such circumstances shall include situations in which:

(1) The credential holder has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the renewal date; or

(2) The credential holder was initially licensed within the twenty-six months immediately preceding the renewal date.

Source: Laws 1965, c. 415, § 2, p. 1325; Laws 1985, LB 250, § 14; Laws 1986, LB 926, § 46; Laws 1988, LB 1100, § 42; Laws 1997, LB 307, § 123; Laws 1999, LB 828, § 99; Laws 2001, LB 209, § 10; Laws 2002, LB 1021, § 21; R.S.1943, (2003), § 71-1,136.01; Laws 2007, LB236, § 27; Laws 2007, LB463, § 883; Laws 2008, LB972, § 2. Operative date December 1, 2008.

**38-2612. Fees.** The department shall establish and collect fees for credentialing under the Optometry Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 884. Operative date December 1, 2008.

**38-2613. Optometrist; pharmaceutical agents; use; certification.** (1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (1)(b) of section 38-2605, if such person is certified by the department, with the recommendation of the board, as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

(2) Such certification shall require (a) satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the board and passage of an examination approved by the board or (b) evidence provided by the optometrist of certification in another state for use of diagnostic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.

Source: Laws 1979, LB 9, § 5; Laws 1986, LB 131, § 3; Laws 1987, LB 116, § 2; Laws 1988, LB 1100, § 41; Laws 1994, LB 987, § 1; Laws 1996, LB 1044, § 439; Laws 1998, LB 369, § 5; Laws 1999, LB 828, § 96; Laws 2003, LB 242, § 50; R.S.1943, (2003), § 71-1,135.02; Laws 2007, LB236, § 23; Laws 2007, LB247, § 73; Laws 2007, LB296, § 341; Laws 2007, LB463, § 885. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 236

became effective September 1, 2007. The changes made by LB 247 and LB 463 became operative December 1, 2008.

**38-2614. Optometrist; pharmaceutical agents; certification of courses of instruction; board approval.** (1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (1)(b) or (c) of section 38-2605 if such person is certified by the department, with the recommendation of the board, as qualified to use ocular pharmaceutical agents for therapeutic purposes, including the treatment of glaucoma.

(2) Such certification shall require (a) satisfactory completion of classroom education and clinical training which emphasizes the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the board and passage of an examination approved by the board or (b) evidence provided by the optometrist of certification in another state for the use of therapeutic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.

Source: Laws 2007, LB247, § 74; Laws 2007, LB463, § 886. Operative date December 1, 2008.

**38-2615. Optometrist; applicability of requirements.** After January 1, 2000, only an optometrist licensed in this state prior to April 30, 1987, may practice optometry without meeting the requirements and obtaining certification required by sections 38-2613 and 38-2614.

Source: Laws 2007, LB247, § 75; Laws 2007, LB463, § 887. Operative date December 1, 2008.

**38-2616. Optometry; approved schools; requirements.** No school of optometry shall be approved by the board as an accredited school unless the school is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education.

Source: Laws 1927, c. 167, § 114, p. 488; C.S.1929, § 71-1604; R.S.1943, § 71-1,136; Laws 1965, c. 415, § 1, p. 1325; Laws 1979, LB 9, § 8; Laws 1994, LB 987, § 3; Laws 1996, LB 1044, § 440; R.S.1943, (2003), § 71-1,136; Laws 2007, LB236, § 26; Laws 2007, LB296, § 342; Laws 2007, LB463, § 889. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 236 became effective September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2617. Use of pharmaceutical agents or dispensing of contact lens containing ocular pharmaceutical agent by licensed optometrist; standard of care.** (1) A licensed optometrist who administers or prescribes pharmaceutical agents for examination or for treatment shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment.

(2) An optometrist who dispenses a contact lens containing an ocular pharmaceutical agent which is classified by the federal Food and Drug Administration as a drug shall comply with the rules and regulations of the board relating to packaging, labeling, storage, drug utilization review, and record keeping. The board shall adopt and promulgate rules and regulations relating to packaging, labeling, storage, drug utilization review, and record keeping for such contact lenses.

Source: Laws 1993, LB 429, § 3; Laws 1998, LB 369, § 8; R.S.1943, (2003), § 71-1,135.06; Laws 2007, LB236, § 25; Laws 2007, LB463, § 890; Laws 2010, LB849, § 7. Operative Date: July 15, 2010.

**38-2618. Optometric assistants; authorized.** Any licensed optometrist may employ optometric assistants. Such assistants, under the supervision of a licensed optometrist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department, with the recommendation of the board.

Source: Laws 2002, LB 1062, § 31; R.S.1943, (2003), § 71-1,135.07; Laws 2007, LB463, § 891. Operative date December 1, 2008.

**38-2619. Optometry; patient's freedom of choice.** No agencies of the state or its subdivisions administering relief, public assistance, public welfare assistance, or other health service under the laws of this state, including the public schools, shall in the performance of their duties, interfere with any patient's freedom of choice in the selection of practitioners licensed to perform examinations and provide treatment within the field for which their respective licenses entitle them to practice.

Source: Laws 1967, c. 431, § 1, p. 1319; R.S.1943, (2003), § 71-1,136.04; Laws 2007, LB236, § 28; Laws 2007, LB463, § 892. The changes made by LB 236 became effective September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2620. Nebraska Optometry Education Assistance Contract Program; purpose.** There is hereby established the Nebraska Optometry Education Assistance Contract Program for the purpose of providing opportunities for citizens of this state desiring to pursue study in the field of optometry at accredited schools and colleges outside the state.

Source: Laws 1974, LB 911, § 1; R.S.1943, (2003), § 71-1,136.05; Laws 2007, LB463, § 893. Operative date December 1, 2008.

**38-2621. Program; Board of Regents; administer; rules and regulations; adopt; reports; conditions.** The program

established by section 38-2620 shall be administered by the Board of Regents of the University of Nebraska. The Board of Regents shall adopt appropriate rules and regulations to carry out sections 38-2620 to 38-2623 and negotiate contract arrangements with accredited schools and colleges of optometry, as provided in section 38-2616, for the admission and education of qualified applicants who are citizens of Nebraska and who have demonstrated their interest, aptitude, and readiness for study in the field of optometry. The Board of Regents shall require reports each year from institutions receiving payments showing the progress and suitability of each student being aided and containing such other information as such board deems proper.

Source: Laws 1974, LB 911, § 2; R.S.1943, (2003), § 71-1,136.06; Laws 2007, LB463, § 894. Operative date December 1, 2008.

**38-2622. Program; financial assistance; number of students.** The total number of students receiving annual financial payments made under sections 38-2620 to 38-2623 shall not exceed sixty students during any school year. No more than fifteen of these students shall be students enrolling in a college of optometry for their first year of instruction.

Source: Laws 1974, LB 911, § 3; R.S.1943, (2003), § 71-1,136.07; Laws 2007, LB463, § 895. Operative date December 1, 2008.

**38-2623. Program; financial assistance; limitation.** Financial assistance under sections 38-2620 to 38-2623 shall be continued not to exceed four years until the enrolled student has received a degree in optometry. Contracts with schools and colleges shall set forth terms and provisions for continuation of such payments.

Source: Laws 1974, LB 911, § 4; R.S.1943, (2003), § 71-1,136.08; Laws 2007, LB463, § 896. Operative date December 1, 2008.

**71-1,133. Transferred to section 38-2605.**

**71-1,134. Transferred to section 38-2607.**

**71-1,135. Transferred to section 38-2608.**

**71-1,135.01. Transferred to section 38-2604.**

**71-1,135.02. Transferred to section 38-2613.**

**71-1,135.03. Repealed. Laws 2007, LB 236, § 47.**

**71-1,135.04. Transferred to section 38-2610.**

**71-1,135.05. Repealed. Laws 2007, LB 236, § 47.**

**71-1,135.06. Transferred to section 38-2617.**

**71-1,135.07. Transferred to section 38-2618.**

**71-1,136. Transferred to section 38-2616.**

**71-1,136.01. Transferred to section 38-2611.**

**71-1,136.02. Repealed. Laws 2003, LB 242, s. 154.**

**71-1,136.03. Repealed. Laws 2007, LB 463, § 1319.**

**71-1,136.04. Transferred to section 38-2619.**

**71-1,136.05. Transferred to section 38-2620.**

**71-1,136.06. Transferred to section 38-2621.**

**71-1,136.07. Transferred to section 38-2622.**

**71-1,136.08. Transferred to section 38-2623.**

**71-1,136.09. Repealed. Laws 2007, LB 463, § 1319.**